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### **Native Customary Rights Land: Indigenous Perspectives**

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#### **Adat and Land Tenure**

The *adat*<sup>1</sup> is the guiding principle with regard to rights to establishing a village territorial domain, individual acquisition of land for cultivation, boundary and inheritance. The territorial domain held by a distinct longhouse is known in Iban as *pemakai menua*<sup>2</sup> and includes farms, gardens, old longhouse sites, fruit groves, cemetery, water and forest within a defined boundary (*garis menua*)<sup>3</sup>. Boundary is an important point of reference when a dispute arises between groups or individuals. The process of creating *pemakai menua* involves the ceremony of *panggul menua*.<sup>4</sup> When the Brookes established a government in Sarawak in 1841 this system of land tenure had long been in existence. During the one hundred years of Brooke rule this system of land tenure was maintained and practiced in the Native Courts.

*Tanah umai* include all lands that are cultivated as farms, gardens, and fruit groves. It also includes land left fallow, widely known in Sarawak as *temuda* (see below). As a general rule the household within the village that first felled the forest secures rights over specific pieces of land. These rights are heritable, passing down from one generation to the next of household members. It is on specific plots of land within the *pemakai menua* that households make their rice farm or cash crop gardens. Individual plots are marked by natural boundaries (*garis umai*) such as streams, watersheds, ridges and permanent landmarks.

*Temuda*<sup>5</sup> refers to farming land left fallow on which there are secondary growths. As a rule the household that first felled the primary forest secures cultivation rights to the

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<sup>1</sup> A. J. N. Richards' 1992, *An Iban-English Dictionary*, Penerbitan Fajar Sdn. Bhd., Petaling Jaya (Second Impression) p. 2 defines *adat* as a "way of life, basic values, culture, accepted code of conduct, manners and conventions". Eric Jensen 1974, *Iban Religion*, Oxford: The Clarendon Press p. 5 observes that *adat* involves an indigenous "system of agriculture". The Malaysian Criteria and Indicators for Forest Management Certification [MC&I(2002)] defines *adat* as "native customs which include way of life, basic values, system of belief, code of conduct, manners, conventions and cultural practices according to which indigenous society is ordered".

<sup>2</sup> The same concept is known as *torun tana kupuo* in Bidayuh, *tana' sengayan* in Kayan, *tana' kanan* in Kenyah, *tana' bawang* in Lun Bawang and Kelabit, *tana' pengurip* in Penan etc. In this presentation, Iban terms or terminologies are used; where terms or terminologies from other communities are used, these will be indicated.

<sup>3</sup> Gerunsin Lembat 1994, "Native Customary Land and *Adat*", a paper presented the Seminar on *NCR Land Development*, Kuching, Sarawak, September 29 – October 3, 1994.

<sup>4</sup> *Panggul menua* refers to the ritual ceremony performed to mark the opening of a territory for settlement, farming, and other activities.